

REMARKS

Claims 1-26 remain pending in the present application. The Examiner's attention is directed to the modification in the docket number, as provided in the header above. Applicants request that the Examiner make an appropriate change in the PTO's designation of the present application. The amendment hereto identifies the various peptide sequences in claims 4 and 8 by the sequence ID numbers set forth in the specification, as required by the Examiner. Finally, various instances of misspellings are corrected. No new matter is entered.

Election/Restriction

The Examiner has required restriction under 35 U.S.C. 121 and 372, and asserts that the following groups of inventions are not so linked as to form a single general inventive concept under PCT Rule 13.1.

Group I, claims 1-15, drawn to a method for detecting the modification of a substrate; and

Group II, claims 16-26, drawn to a biosensor/kit for detecting the presence or absence of a protein.

Applicants hereby elect the invention of Group I, with traverse, for prosecution at this time.

Traversal is based upon the Examiner's conclusion that the identified Groups fail to relate to a single inventive concept, as lacking the same or corresponding technical features pursuant to PCT Rules 13.1 and 13.2. The Examiner states:

Application No.: 10/576,634

Dated: April 7, 2009

Reply to Office Action Mailed: February 10, 2009

In the instant application, the inventions of groups I-II do not share a common special technical feature that is a contribution over the art, as the method of group I has been taught by WO 03/063693, who teaches a method for detecting the modification of a substrate (see abstract). Therefore, the method and compound do not form a single inventive concept. (Office Action, page 3, first paragraph).

Applicants respectfully traverse the Examiner's finding, and direct attention to each of claims 1 and 16, which require a "colorimetric component". The term "colorimetric component" is described at paragraph [0008], to wit:

A "colorimetric component" is defined herein as any component that provides color or fluorescence such as, but not limited to, a dye.

Further, at paragraph [0010], Applicants explain the action of the "colorimetric component":

The modification comprises cleaving at least a portion of the substrate, wherein the portion includes one of the colorimetric components and the cleaving results in a detectable signal (e.g., a visible color change). (Emphasis added).

Thus, both of claims 1 and 16 provide a contribution over the cited reference, WO 03/063693, which invariably measures color change with instrumentation. In contrast, Applicants further specify that the color change according to the present application is not measured with detection equipment.

As used herein, a "visible signal" includes a color change that is perceptible without any kind of detection equipment or enhancing equipments, such as a fluorometer. In other embodiments, the detectable signal is a change in color from one nonfluorescent color or hue to another. [0038]; emphasis added.

Application No.: 10/576,634
Dated: April 7, 2009
Reply to Office Action Mailed: February 10, 2009

This distinction over the cited reference is especially important in providing a kit (claim 26) which can be taken home by a patient after discharge from a hospital, permitting the patient to accurately monitor his or her condition. [0006].

Accordingly, Applicants submit that Unity of Invention under PCT Rules 13.1 and 13.2 exists in the claims, and restriction is unwarranted. Withdrawal of the restriction requirement is requested.

Election of Species

The Examiner further requires Applicants to elect a single species from the peptide sequences set forth in claims 4 and 18 for examination at this time.

Applicants provisionally elect the species of SEQ ID NO: 23, with traverse, for essentially the same reasons as set forth above. That is, all the claims present a clear contribution over the cited reference, and thus share a common special technical feature, as required by PCT Rules 13.1 and 13.2.

Withdrawal of the requirement for election of species is requested.

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Account No. 50-2478 (14789).

In view of the foregoing, it is respectfully submitted that the present claims are in condition for allowance. Prompt notification of allowance is respectfully solicited.

If the Examiner has any questions or wishes to discuss this application,

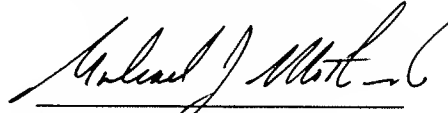
Application No.: 10/576,634

Dated: April 7, 2009

Reply to Office Action Mailed: February 10, 2009

the Examiner is invited to contact the undersigned representative at the number set forth below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael J. Mlotkowski", written over a horizontal line.

Michael J. Mlotkowski
Attorney for Applicants
Registration No. 33,020
(703) 584-3270

Date: April 7, 2009

POST OFFICE ADDRESS to which
correspondence is to be sent:

Roberts, Mlotkowski Safran & Cole
P.O. Box 10064
McLean, VA 22102